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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,896	12/12/2000	Carlos Pinzon	05725.0806-00	5467
22852	7590	11/18/2003	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			RAJGURU, UMAKANT K	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,896

Applicant(s)

PINZON ET AL.

Examiner

Umakant K. Rajguru

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ~~1-281, 286 and 288-299~~¹⁻²⁹⁹ is/are pending in the application.
- 4a) Of the above claim(s) ~~282-285 and 287~~^{282-285 and 287} is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-281, 286 and 288-299 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. An RCE has been filed on July 24, 2003.
2. Claims 1-281, 286 and 288-299 are under examination.
3. Rejection of above claims set forth in earlier Office actions is now withdrawn.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-27, 40-46, 50-63, 66, 69-111, 131-138, 142-155, 187-213, 226-281, 286 and 289-299 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al (US 5,500,209) in view of Arnaud et al (US 5,908,63).

Ross discloses compositions containing polyamide-gelling agent. A suitable polyamide is Macromelt 6212 (column 14, lines 52-53).

Ross does not mention oil-soluble polymer.

Arnaud discloses monolydric alcohol free composition comprising solubilized ethyl cellulose for topical use.

It would have been obvious to add to the composition of Ross, the ethyl cellulose (of Arnaud) to enhance adhesion, durability viscosity and hydrophobicity efficacy.

6. Claims 28-39, 112-130 and 214-225 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al (US 5,500,209) in view of Arnaud et al (US 5,908,631) as applied to claims 1, 95 and 187 above, and further in view of Pavlin et al (US 5,783,657).

(Pavlin is cited in earlier Office actions.)

Ross (together with Arnaud) fails to mention structural polymer of the (claimed) structure of instant claim 28.

Pavlin discloses ester-terminated polyamides of polymerized fatty acids useful in gels. Such a polyamide is represented by a structural formula in column 4, lines 19-47. This polyamide reads of the structuring polymer of instant claims 1-6. In column 13, lines 31-46, patentee offers suggestions to control average molecular weight of said polyamides. Softening points are disclosed in column 7, lines 32-35.

Therefore it would have been obvious from teachings of Pavlin that the polymer of Ross can be represented by a formula as shown by Pavlin.

7. Claims 64-65, 67-68 and 156-186 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al (US 5,500,209) in view of Arnaud et al (US 5,908,631) as applied to claim 1 above, and further in view of Mondet (US 6,180,123).

Ross (together with Arnaud) does not disclose gum as an ingredient of gel.

Mondet discloses composition in which alkylated guar gums are used as thickening agents (column 12, lines 13-15).

Hence it would have been obvious to use alkylated guar gums (of Mondet) as thickening agent in composition of Ross to enhance stability and to increase viscosity.

8. Claims 47-49 and 139-141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al (US 5,500,209) in view of Arnaud et al (US 5,908,631) as applied to claim 1 above, and further in view of Ferrari (US 6,402,408).

Ross together with Arnaud does not mention hardness of the composition.

Ferrari discloses a composition (similar to Ross) containing liquid fatty phase gelled with polyamide. In column 5, lines 29-59, patentee describes values of hardness typically associated with such composition.

Therefore it would have been obvious that the composition of Ross possesses the (claimed) values of hardness.

9. Claim 288 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tournilhac et al (US 6,287,552) in view of Arnaud et al (US 5,908,631).

Tournilhac discloses compositions comprising a polyester and a film-forming polymer such as polyureas and poly(urethane ureas) (col. 9, lines 3-17).

Tournilhac does not mention oil-soluble polymer.

Disclosure of Arnaud is presented earlier.

Therefore it would have been obvious to add to the composition of Tournilhac, the ~~oil~~-soluble polymer of Arnaud to enhance adhesion durability, viscosity and hydrophobicity efficacy.

1. Any inquiry concerning this communication from the examiner should be directed to U.K. Rajguru whose telephone number is 703-308-3224. The examiner can generally be reached on Monday-Friday 9:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone numbers for the organization where this application is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.


Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-0661.

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U.K. Rajguru/dh
November 7, 2003



RABON SERGENT
PRIMARY EXAMINER